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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,552	03/25/2004	Yasushi Yatsuda	ST3001-0038	4922
39083	7590	01/29/2007		
CERMAK & KENEALY, LLP 515 EAST BRADDOCK RD SUITE B Alexandria, VA 22314			EXAMINER TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/29/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/808,552

Applicant(s)

YATSUDA ET AL.

Examiner

Anabel M. Ton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-10 and 12-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5, 7-10, 12 and 13 is/are allowed.
- 6) ☒ Claim(s) 14-18, 22 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 19-21, 23-29, 33 and 34 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3-25-04
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claims 1 and 5 are objected to because of the following informalities: Although the Examiner deemed claim 6 as allowable subject matter in the previous office action, and applicant has amended claim 1 to incorporate "and at least some of the LED elements are arranged along a given ridgeline", applicant has failed to provided antecedent basis for "a given ridgeline" in claim 1. In other words, a ridgeline has not been previously mentioned in claim 1 and as currently recited, a given ridgeline is not claimed to structurally cooperate with the rest of the structure since it is not clear where this ridgeline is located with respect to the structure of the apparatus. Appropriate correction is required. Furthermore, applicant has previously recited in claim one that all the LED elements are arranged adjacent the base and there is no antecedent basis for some of the LED elements being arranged along a given ridgeline since only one set of LEDs has been previously mentioned in claim 1, not two. The same issues arise in claim 5.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

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351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14,15,22,32 are rejected under 35 U.S.C. 102(e) as being anticipated by Feldman et al (6,666,567).

4. Feldman discloses a base (902), a plurality of LEDs located adjacent the base (the outer array of LED's along the top, bottom and right and left sides are considered to be adjacent the base) and formed in on symmetrical array (as shown in figures 8,9 the positioning of the LED's is not symmetrical since they are positioned at distinct angles with respect to each other), such that the light emitting from the LED elements forms a light distribution pattern (summary of invention); the LEDs are substantially rectangular and polygonal in exterior shape; the base in includes are least one cavity and the plurality of LED elements are mounted in the at least one cavity located in the base (502).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16,17,30-32 rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman.

- With regards to the LED's being different in size one compared to the other, It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to make the LED's of Feldman different in size, since it has been held by the courts that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device, and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984),). It appears that the disclosed device would perform equally well shaped as disclosed by Pederson since the end result of the device is to provide a light distribution pattern for a headlight.

- With regards to the LED's being triangular, parallelogramic or square in shape, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include these shapes in the shapes of the LEDs provided by Feldman, since it has been held by the courts that a change in shape or configuration, without any criticality, is nothing more than one of numerous shapes that one of ordinary skill in the art will find obvious to provide based on the suitability for the intended final application. See *In re Dailey*, 149 USPQ 47 (CCPA 1976). It appears that the disclosed device would perform equally well shaped as disclosed by Feldman.

7. Claims 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Feldman as applied to claim 14 above, and further in view of Pederson.

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8. Feldman discloses the invention as stated above. Feldman does not disclose a drive device capable of supplying different drive currents to the LED elements wherein at least one of the LED elements is driven by a different drive current as compared to another of the LED elements. Pederson discloses a controller 58 that provided current to the LED's based on the desired light output of a select amount of LED's. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the controller of Pederson in the device of Feldman to provide different drive currents to the each select LED for a desired light emission.

***Allowable Subject Matter***

9. Claims 1-5,7-10,12,13 would be allowable if rewritten or amended to overcome objection, set forth in this Office action.

10. Claims 19,20,21,23-29,33,34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The reasons can be found in the previous office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

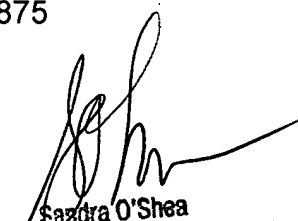
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anabel M Ton  
Examiner  
Art Unit 2875

AMT



Sandra O'Shea  
Supervisory Patent Examiner  
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